

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

THURSTON EUGENE BROWN,

Petitioner

VS.

DONALD BARROW, Warden,

Respondent

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CIVIL ACTION NO.: 5:05-CV-257 (CAR)

ORDER

Before the Court is Petitioner **THURSTON EUGENE BROWN'S** notice of appeal (Tab # 21) and application for a certificate of appealability ("COA") (Tab #22) from the Court's January 9, 2006 Order, which accepted the United States Magistrate Judge's Recommendation that Petitioner's federal habeas corpus action be dismissed. The Eleventh Circuit Court of Appeals has mandated that the Court construe Petitioner's notice of appeal as an application for a certificate of appealability ("COA") pursuant to 28 U.S.C. § 2253(c). *Edwards v. United States*, 114 F.3d 1083 (11th Cir. 1997).

Under § 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For the reasons stated in the United States Magistrate Judge's Recommendation and this Court's Order accepting the same, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

SO ORDERED, this 15th day of March, 2006.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT